

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLEARLAKE SHIPPING PTE LTD.,

14 Civ. 9287 (VEC)

Plaintiff,

-against-

O.W. BUNKER (SWITZERLAND) SA, ET AL.,

Defendants.

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SHV GAS SUPPLY & RISK
MANAGEMENT SAS and EXMAR
SHIPPING BVBA, as owner of the
WAREGEM (IMO NO. 9659127),

14 Civ. 9720 (VEC)

Plaintiffs,

-against-

O.W. BUNKER USA, INC., O.W. BUNKER
HOLDING NORTH AMERICA INC., O.W.
BUNKER NORTH AMERICA INC.,
NUSTAR ENERGY SERVICES, INC.,
AND ING BANK NV,

Defendants.

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HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

-against-

14 Civ. 9949 (VEC)

U.S. OIL TRADING LLC, O.W. BUNKER
GERMANY GMBH, O.W. BUNKER & TRADING
A/S, ING BANK N.V., CRÉDIT AGRICOLE S.A.,

Defendants.

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NYK BULK & PROJECT CARRIERS LTD.,
ET ANO.,

14 Civ. 10090 (VEC)

Plaintiffs,

-against-

O.W. BUNKER USA, INC. ET AL.,

Defendants.

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NIPPON KAISHA LINE LIMITED, ET ANO.,

Plaintiffs,

-against-

14 Civ. 10091 (VEC)

O.W. BUNKER USA, INC. ET AL.,

Defendants.

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION
FOR LEAVE TO FILE JOINT REPLY MEMORANDUM OF LAW
BY NUSTAR ENERGY SERVICES, INC. AND U.S. OIL TRADING LLC**

NuStar Energy Services, Inc. (“NuStar”) and U.S. Oil Trading LLC (“USOT”) (collectively, “defendants”), by their attorneys, Blank Rome LLP and Clyde & Co US LLP, respectively, continuing to reserve all rights and defenses in accord with the Court’s Order dated December 19, 2014, respectfully submit this joint memorandum of law in support of their joint motion for leave to file the Joint Memorandum of Law by NuStar and USOT dated February 13, 2015, to respond to new arguments advanced for the first time in the memoranda of law dated February 4, 2015, filed by the “Vessel Interests” and the O.W. Bunker entities on the issues

raised in the Court's Order dated December 19, 2014. Dkt. 42.¹

The Court's Order dated December 19, 2014, directs that counsel for plaintiffs shall file one brief and counsel for defendants-claimants shall file one brief (the "December 19 Order"). Dkt. 8 at ¶ 2. On January 14, 2015, counsel for NuStar and USOT filed a joint memorandum of law in accordance with the Court's December 19 Order and scheduling order dated December 31, 2014. Dkt. 21 at ¶ 1. On February 4, 2015, counsel for the plaintiffs filed a joint brief which advanced new arguments to which defendants should have an opportunity to respond. *See generally* Local Civil Rule 6.1(b)(3). The same day, without seeking the Court's permission, counsel for defendants-claimants O.W. Bunker USA, Inc., O.W. Bunker Holding North America, Inc. and O.W. Bunker North America, Inc. filed a separate joint memorandum of law in the case styled, *SHV Gas Supply & Risk Mgmt. SAS, et ano. v. O.W. Bunker USA, Inc.*, 14 Civ. 9720 (S.D.N.Y.)(VEC), at Dkt. 71. The O.W. Bunker entities, however, failed to file their memorandum of law in the USOT Case or otherwise provide USOT with notice of their submission. That memorandum also advanced new arguments to which NuStar and USOT have not had an opportunity to respond. NuStar and USOT may suffer prejudice if they are not allowed leave to file their joint reply memorandum responding to these new arguments by plaintiffs and the O.W. Bunker entities.

Accordingly, defendants NuStar and USOT respectfully request that the Court grant the instant motion and allow NuStar and USOT leave to file the accompanying Joint Memorandum of Law by NuStar and USOT dated February 13, 2015. Defendants continue to reserve all rights, claims and defenses in their respective cases in making this motion, including but not limited to (1) their right to assert a claim against the relevant plaintiff(s) *in personam*; (2)

¹ References herein to "Dkt. ____" are to the docket in the case styled, *Hapag-Lloyd Aktiengesellschaft v. U.S. Oil Trading LLC*, et al., 14 Civ. 9949 (S.D.N.Y.)(VEC) (the "USOT Case").

their right to assert a claim against the alleged funds in the Court's registry; and (3) any defenses defendants have asserted or may assert in their first responsive pleading to plaintiffs' respective complaints for interpleader, including but not limited to lack of personal jurisdiction, subject matter jurisdiction, service of process and venue.

Dated: New York, New York
February 13, 2015

BLANK ROME LLP

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-and-

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